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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/701,088	11/04/2003	Mark H. Borgman	DN 1526	4432
26483	7590	11/16/2005	EXAMINER	
ANCEL W. LEWIS, JR. 425 WEST MULBERRY SUITE 101 FORT COLLINS, CO 80521			VANTERPOOL, LESTER L	
			ART UNIT	PAPER NUMBER
			3727	

DATE MAILED: 11/16/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/701,088	<b>Applicant(s)</b> BORGMAN ET AL.	
	<b>Examiner</b> Lester L. Vanterpool	<b>Art Unit</b> 3727	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☒ Claim(s) 1, 2, & 9 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 04 November 2003 is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |  |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)            |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____  |

## **DETAILED ACTION**

### ***Specification***

1. Abstract is longer than 150 words.

Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

### ***Claim Rejections - 35 USC § 112***

2. Regarding claim 1, the word "means" is preceded by the word(s) "for fixing" in an attempt to use a "means" clause to recite a claim element as a means for performing a specified function. However, since no function is specified by the word(s) preceding "means," it is impossible to determine the equivalents of the element, as required by 35 U.S.C. 112, sixth paragraph. See *Ex parte Klumb*, 159 USPQ 694 (Bd. App. 1967).

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3. Regarding claim 9, the word "means" is preceded by the word(s) "for fixing" in an attempt to use a "means" clause to recite a claim element as a means for performing a specified function. However, since no function is specified by the word(s) preceding "means," it is impossible to determine the equivalents of the element, as required by 35 U.S.C. 112, sixth paragraph. See *Ex parte Klumb*, 159 USPQ 694 (Bd. App. 1967).

### ***Claim Objections***

4. Claim 2 is objected because of the following informalities: "Said base of claim 2, line 4 should be; "said first base." Appropriate correction is required.
5. Claim 9 is objected to because of the following informalities: In line 19, "having a having" should be "having an". Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the

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applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

7. Claims 1, 2, 4, 10, and 12 are rejected under 35 U.S.C. 102(b) as being anticipated by Shores (U.S. Patent Number 5226341). Shores, discloses body (20) configured so as to be inherently capable of carrying an article. Shores, further discloses a clamp rotably attached to the body, which includes fixing a clamp in place relative to the body. See Figure 3.

Regarding claim 2, Shores further discloses the clamp having a first clamp member (34), a second clamp member (36) (column 3, line 64) and see (Figure 3), a link (64) (column 4, line 18), and an actuator (66) (column 4, line 18). See also Figure 3.

Regarding claims 4 and 12, Shores discloses the actuator having a cylindrical portion rotably mounted in the body and the actuator (66) attached to an end of the cylindrical portion and extending transversely with the cylindrical portion having an outer surface, a cylindrical eccentric cavity and a slot (44) between the outer surface and eccentric cavity that extends around a portion of the cylindrical portion and link member (column 4, line 21). See also Figure 3.

Regarding claim 10, Shores discloses the clamp having a first clamp member (38), a second clamp member (40) (column 4, line 35) and see (Figure 1 and 3), a link (64) (column 4, line 18), an actuator (66) (column 4, line 20) whereby the link member

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moves the second base toward the first base and thereby moves the second interlocking portion into interlocking engagement with first interlocking portion to lock the first and second clamp members around the tube.

8. Claims 6, 7, & 8 are rejected under 35 U.S.C. 102(e) as being anticipated by Gates et al. (U.S. Patent No. 6588637). Gates et al., discloses a body is configured to carry a skateboard (column 2, lines 43 - 45). Furthermore, Gates et al., discloses a clamp rotably attached to a body, which includes fixing a clamp in place relative to the body (column 3, line 44 - 49). See Figure 1.

Regarding claim 7, Gates et al., discloses a carrier generally J shaped, having a long leg and a spaced short leg connected to the long leg by a curved section to form a groove sized and shape to receive the skateboard (column 8, line 37). See Figure 1.

Regarding claim 8, Gates et al., discloses an elastic cord configured to fixedly hold an end of an elastic cord with a knob opposite top end wherein an elastic cord is wrapped over a skateboard and through a slot with a knob hooking into the top end of leg to secure the skateboard in a groove (Figure 1) and (column 3, line 4).

***Claim Rejections - 35 USC § 103***

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 5 and 13 are rejected under U.S.C. 103(a) as being unpatentable over Shores in view of Condon (U.S. Patent Number 5230488). Shores discloses everything such as a carrier wherein the first interlocking portion includes an outwardly projecting pair of fingers separated by a notch (36), second interlocking portion having transversely projecting tab sized to fit into a notch (34) (column 3, line 68) (See Figure 3), however, Shores lacks the peg that extends laterally through the tab and laterally in both directions with the peg being spaced from the second intermediate section between the fingers. Condon teaches a peg (18) (column 3, line 6) that extends laterally through the tab and laterally in both directions with the peg being spaced from the second intermediate section between the fingers. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to provide the tab of Shores with the peg of Condon, in order to assist with the ease of aligning and securing the first and second interlocking portions instead of having to use additional tools for screws and bolts.

***Allowable Subject Matter***

11. Claim 3 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 6<sup>th</sup> paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

12. Claim 9 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 6<sup>th</sup> paragraph, set forth in this office action.

13. Claim 11 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Conclusion***

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lester L. Vanterpool whose telephone number is 571-272-8026. The examiner can normally be reached on Monday - Friday (8:30 - 5:00) EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan Newhouse can be reached on 571-272-4544. The fax phone




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number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

llv

  
JES F. PASCUA  
PRIMARY EXAMINER

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